

Message Text

PAGE 01 GENEVA 01184 01 OF 02 161239 Z

12

ACTION IO-13

INFO OCT-01 ADP-00 SS-14 NSC-10 L-03 SR-02 ORM-03 AF-10

ARA-11 EA-11 EUR-25 NEA-10 RSC-01 CIAE-00 INR-09

NSAE-00 INRE-00 SSO-00 CCO-00 NSCE-00 RSR-01 /124 W

----- 071904

O 161200 Z MAR 73

FM USMISSION GENEVA

TO SECSTATE WASHDC IMMEDIATE 8325

LIMITED OFFICIAL USE SECTION 1 OF 2 GENEVA 1184

E. O. 11652: GDS

TAGS: SOCI, ECOSOC

SUBJECT: HUMAN RIGHTS COMMISSION- SOVIET JEWRY ITEM 9 (C)

REF: A. STATE 48059; B. GENEVA 902; C. GENEVA 935 AND D. GENEVA 1165

1. AS INDICATED REF (B) ITEM 9 WAS SCHEDULED FOR CONSIDERATION IMMEDIATELY AFTER ITEM 6. REF (D) REPORTED COMPLETION ITEM 6, PM MEETING MARCH 14. AFTER FINAL EXPLANATIONS OF VOTE AT AM MEETING MARCH 15. REMAINDER OF MEETING DEVOTED TO PROCEDURAL DISCUSSION RE ORDER OF FIVE SUB- ITEMS UNDER ITEM 9. NINE MEETINGS ALLOTTED TO ITEM 9.

2. DURING PROCEDURAL DISCUSSION, USDEL SUPPORTED CHAIRMAN'S PROPOSAL THAT INITIAL DISCUSSION BE GENERAL COVERING ALL SUB- ITEMS FOR FIRST TWO OR THREE MEETINGS TO BE FOLLOWED BY DETAILED DISCUSSION EACH SUB- ITEM IN ORDER COMMISSION WOULD SET. USDEL EXPRESSED PREFERENCE FOR PRIORITY DISCUSSION FOR ITEM 9(C), USSR AND U. K. PREFERENCE PRIORITY FOR 9(E) AND SEVERAL OTHER DELS PRIORITY FOR 9(A). IT CONSEQUENTLY SEEMS CLEAR THAT WHEN GENERAL DISCUSSION FINISHED PROBABLY BY CLOSE OF PM MEETING MARCH 16, COMMISSION WILL BEGIN DETAILED CONSIDERATION OF EITHER ITEM 9(A) OR 9(E). FROM OUR PRIVATE SOUNDINGS, MOST WEO DELS WOULD NOT SUPPORT PRIORITY FOR ITEM 9(C) ON GROUNDS THAT SUBJECT MATTER TOO POLITICAL.

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PAGE 02 GENEVA 01184 01 OF 02 161239 Z

3. IN GENERAL DISCUSSION ITEM 9, OR IN EVENT TIME ALLOWS COMMISSION TAKE UP ITEM 9(C), IT UNLIKELY THAT ANY DELEGATION BUT USDEL WOULD

ADDRESS PROBLEM OF SOVIET JEWRY. THIS WOULD FOLLOW PATTERN OF PREVIOUS HRC SESSIONS WHEN PROBLEM OF SOVIET JEWRY HAS BEEN SUBJECT OF LIMITED EXCHANGE BETWEEN US AND USSR DELS. AS REPORTED REF C, ISRAELI OBSERVER RAISED SOVIET JEWRY MATTER UNDER ITEM 4(A) CONCERNING THE ELIMINATION OF RACIAL DISCRIMINATION. IT ALSO UNLIKELY THAT ANY OTHER SPECIFIC INSTANCES OF DENIAL OR BARRIERS TO ENJOYMENT RIGHT TO LEAVE LIKELY TO BE RAISED UNDER ITEM 9(C).

4. IN OUR PRIVATE CONVERSATIONS WITH OTHER DELS, USDEL HAS EXPRESSED DESIRE THAT ENOUGH TIME BE SET ASIDE FOR CONSIDERATION OF AND ACTION UNDER ITEM 9(C). FOLLOWING OUT THIS POSITION, USDEL ON MARCH 15 SUBMITTED FOR CIRCULATION A DRAFT RESOLUTION WHICH WE WOULD PROPOSE FOR ADOPTION BY COMMISSION UNDER ITEM 9(C). THIS DRAFT RESOLUTION, TEXT WHICH FOLLOWS IN SEPTEL, HAS BEEN CIRCULATED AS COMMISSION DOCUMENT BUT NOT YET FORMALLY INTRODUCED BY USDEL. UPON RECEIPT REF A, USDEL ATTEMPTED TO HOLD UP CIRCULATION OF DRAFT RESOLUTION BUT DISCOVERED IT HAD ALREADY BEEN DISTRIBUTED.

5. AFTER OPENING DEBATE IN HRC AM MEETING MARCH 15, CHIEF OF USDEL HELD BACKGROUND PRESS BRIEFING WITH SELECTED UN CORRESPONDENTS TO EXPLAIN OUR OBJECTIVES UNDER ITEM 9(C). USDEL INDICATED TO PRESS OUR INTENTION TO RAISE MATTER OF SOVIET JEWRY AND GAVE TO THOSE PRESENT ADVANCE COPIES OF OUR PROPOSED STATEMENT. ALL OF THESE COPIES HAVE BEEN RETRIEVED BY USDEL.

6. IN LIGHT OF STRONG INTEREST ALREADY EXPRESSED PUBLICLY AND PRIVATELY BY USDEL IN ITEM 9(C) AND IN VIEW OF DRAFT RESOLUTION ON TABLE, USDEL CONSIDERS IT TO BE OBVIOUSLY IN OUR INTEREST THAT WE MAKE STATEMENT ON SUBJECT, OMITTING, OF COURSE, PER REFTEL A ANY REFERENCE TO SPECIFIC CASES. WE HAVE EXPLAINED TO OTHERS THAT OUR INTEREST IN SUBJECT OF RIGHT TO LEAVE A COUNTRY IS NOT DIRECTED TO ANY PARTICULAR SITUATION BUT DERIVES FROM IMPORTANCE THAT WE ATTACH TO THIS BASIC RIGHT AS EXPRESSED IN ARTICLE 13 OF UNIVERSAL DECLARATION OF HUMAN RIGHTS. DURING COURSE OF PRESENT SESSION, USDEL HAS STRESSED IMPORTANCE OF HRC TURNING ATTENTION TO MATTERS OTHER THAN RACIAL QUESTIONS AND WE HAVE POINTED TO BASIC HUMAN RIGHT OF RIGHT TO LEAVE AS OFFERING TIMELY FOCUS OF ATTENTION. CONSEQUENTLY, IN VIEW OF EXPOSED POSITION IN WHICH USDEL IS PRESENTLY SITUATED, REQUEST AUTHORITY TO MAKE GENERAL STATEMENT ITEM 9(C). WE DESIRE USE TEXT OF PROPOSED STATEMENT WHICH LIMITED OFFICIAL USE

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PAGE 03 GENEVA 01184 01 OF 02 161239 Z

WE HAD PREPARED PRIOR TO RECEIPT OF REFTEL A WITH DELETION OF SECTION REFERRING TO SOVIET JEWRY. SOVIET JEWRY PORTION WAS VERBATIM INSERTION OF APPROVED TEXT AS CONTAINED IN CLEARED POSITION PAPER.

7. PROCEDURALLY, USDEL REQUIRES AUTHORITY TO DELIVER STATEMENT BY 3 PM MARCH 16, DURING LAST MEETING ALLOTTED FOR GENERAL DISCUSSION. POSSIBILITY OF MAKING STATEMENT LATER WILL DEPEND UPON OUR ABILITY

TO SECURE ALLOTMENT OF SOME TIME FOR ITEM 9(C).

8. PROPOSED TEXT FOLLOWS:

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ADP000

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PAGE 01 GENEVA 01184 02 OF 02 161304 Z

44

ACTION IO-13

INFO OCT-01 ADP-00 IOE-00 AF-10 ARA-11 EA-11 EUR-25 NEA-10

RSC-01 L-03 SS-14 NSC-10 CIAE-00 INR-09 NSAE-00 SR-02

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----- 072096

O 161200 Z MAR 73

FM USMISSION GENEVA

TO SECSTATE WASHDC IMMEDIATE 8326

LIMITED OFFICIAL USE SECTION 2 OF 2 GENEVA 1184

BEGIN TEXT. MY DELEGATION HAS REVIEWED ONCE AGAIN THE STUDY OF DISCRIMINATION IN RESPECT OF THE RIGHT OF EVERYONE TO LEAVE ANY COUNTRY, INCLUDING HIS OWN AND TO RETURN TO HIS COUNTRY. WE HAVE BEEN PARTICULARLY IMPRESSED THAT THIS STUDY, PREPARED ALMOST A DECADE AGO, HAS RETAINED A TIMELINESS AND PERTINENCE DESPITE THE VAST CHANGES WHICH HAVE OCCURRED THROUGHOUT THE WORLD DURING THIS PERIOD. THIS CONCISE AND LUCID STUDY CAN BE VIEWED AS FRESH AS THIS MORNING' S NEWSPAPER.

IT IS THE SPECIAL GOOD FORTUNE OF THIS COMMISSION THAT THE DISTINGUISHED AUTHOR OF THIS STUDY, JUDGE JOSE INGLES, IS OCCUPY-ING THE SEAT OF THE PHILIPPINE DELEGATION WHICH HAS MADE SUCH A MARKED CONTRIBUTION TO THE WORK OF THIS COMMISSION OVER THE YEARS. JUDGE INGLES, WHO HAS DEVOTED HIS CAREER TO FURTHERING THE PRO-TECTION AND ENJOYMENT OF HUMAN RIGHTS, HAS MADE A MOST DISTINCT CONTRIBUTION TO OUR UNDERSTANDING OF THE FUNDAMENTAL RIGHTS SET FORTH IN ARTICLE 13(2) OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS WHICH PERTAINS TO THE RIGHT TO LEAVE AND RETURN.

WE HAVE NOTED ESPECIALLY THE REFEREENCES THROUGHOUT THE STUDY TO THE UNDERLYING IMPORTANCE OF THE RIGHT TO LEAVE AND RETURN IN RELATION TO OTHER HUMAN RIGHTS AND FREEDOMS. DESPITE PROGRESS IN FURTHERING PROTECTION OF THE WIDE RANGE OF RIGHTS SET FORTH IN THE DECLARATION, THERE STILL UNFORTUNATELY EXISTS A WIDE GAP BETWEEN SOCIETIES WHICH AFFORD MAXIMUM OPPORTUNITY FOR FREEDOM OF PERSON AND EXPRESSION AND THOSE CLOSED SOCIETIES WHERE INDIVIDUAL DIGNITY IS SEVERELY CIRCUMSCRIBED BY THE DICTATES OF A SMALL MINORITY. IN THESE LATTER SOCIETIES, DISCRIMINATION IS PRACTICED AS OFFICIAL
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PAGE 02 GENEVA 01184 02 OF 02 161304 Z

POLICY DENYING TO ALL SEGMENTS OF THE POPULATION BASIC POLITICAL AND CIVIL RIGHTS AND OFTEN IMPOSING MUCH HARSHER TREATMENT ON CERTAIN GROUPS BECAUSE OF THEIR RACIAL OR ETHNIC ORIGIN.

IN ORDER TO PROTECT INDIVIDUALS WHO MAY BE DISSATISFIED WITH THEIR PRESENT CONDITION, THE AUTHORS OF THE DECLARATION WISELY INCLUDED ARTICLE 13(2) WHICH WOULD PERMIT SUCH INDIVIDUALS TO SEEK A BETTER LIFE ELSEWHERE.

THE STUDY MOST ELOQUENTLY REFERS TO ARTICLE 13(2) AS THE " RIGHT OF PERSONAL SELF- DETERMINATION" WHICH MUST CERTAINLY COMPLEMENT THE COLLECTIVE RIGHT OF SELF- DETERMINATION OF PEOPLES UNDER COLONIAL RULE OR ALIEN DOMINATION.

THE INTER- RELATION OF THE RIGHT TO LEAVE AND RETURN WITH OTHER RIGHTS IN THE DECLARATION HAS BEEN MADE MOST FORCEFULLY IN THE STUDY. AS THE STUDY NOTES, DENIAL OF THIS RIGHT CAN RESULT IN CONTINUED DEPRIVATION OF OTHER CIVIL AND POLITICAL RIGHTS WHERE AN INDIVIDUAL IS FORCED TO REMAIN UNDER AN ARBITRARY REGIME. IN EXTREME CASES, AS THE STUDY STRESSES, " DENIAL OF THE ULTIMATE RIGHT TO MOVE ELSEWHERE TO A MAN SEEKING TO LEAVE A COUNTRY BECAUSE HE IS BEING PERSECUTED, MAY BE TANTAMOUNT TO THE TOTAL DEPRIVATION OF LIBERTY, IF NOT LIFE ITSELF".

THE STUDY POINTS UP THE FACT THAT RESTRICTIONS ON THE RIGHT OF MOVEMENT ARE OF RELATIVELY RECENT ORIGIN, IN MANY CASES DATING ONLY SINCE THE SECOND WORLD WAR. PRIOR TO THAT TIME, PEOPLES GENERALLY MOVED FREELY SUBJECT ONLY TO LIMITATIONS ON ENTRY WHICH BE POSED BY CERTAIN COUNTRIES.

MY COUNTRY HAS BEEN ESPECIALLY BLESSED BY THE FREEDOM OF MOVEMENT OF THE NINETEENTH AND EARLY TWENTIETH CENTURIES WHICH ENRICHED OUR SOCIETY WITH PEOPLES AND CULTURES FROM THE FOUR CORNERS OF THE WORLD. WE ARE PROUD OF THE RICH AND DIVERSE HERITAGE OF OUR FOREFATHERS WHICH HAS MADE THE US A UNIQUE MIXTURE OF RACES AND PEOPLE. WE HAVE WELCOMED TO OUR SHORES MILLIONS OF REFUGEES FROM POLITICAL, RELIGIOUS AND ETHNIC PERSECUTION AS WELL AS THOSE WHO HAVE SOUGHT TO IMPROVE THEIR ECONOMIC CONDITION IN A FREE SOCIETY WHICH PROVIDES MAXIMUM OPPORTUNITY FOR INDIVIDUAL ACHIEVEMENT.

WHILE WE ARE A COUNTRY OF IMMIGRANTS, WE HAVE AT THE SAME TIME UPHELD THE RIGHT OF PERSONS TO LEAVE THE US. AMERICAN CITIZENS OR ALIENS ARE FREELY PERMITTED TO TRAVEL OR TO MOVE TO OTHER COUNTRIES SUBJECT ONLY TO RARE RESTRICTIONS. PASSPORTS ARE ISSUED ROUTINELY WITHOUT UNDUE FORMALITY. AMERICAN CITIZENS MAY TRAVEL TO MOST COUNTRIES IN THE WESTERN HEMISPHERE WITHOUT A PASSPORT. DESPITE SUPPOSED INJUSTICES TO MINORITY GROUPS IN THE US, FEW PERSONS CHOOSE TO LEAVE ALTHOUGH THEY ARE PERFECTLY FREE TO DO SO.

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PAGE 03 GENEVA 01184 02 OF 02 161304 Z

WE ARE GRATIFIED THAT MOST OTHER COUNTRIES FOLLOW THE SAME LIBERAL POLICIES WHICH WE HAVE ADOPTED. IN WESTERN EUROPE, FOR EXAMPLE

TRAVEL RESTRICTIONS HAVE BEEN VIRTUALLY ELIMINATED.

FREEDOM OF MOVEMENT ALSO EXISTS IN MOST COUNTRIES OF THE DEVELOPING WORLD ALTHOUGH ECONOMIC CONSTRAINTS, POSED BY LIMITED FOREIGN EXCHANGE RESERVES, HAVE PLACED CERTAIN LIMITATION ON FREEDOM OF TRAVEL. EMIGRATION FROM MOST OF THESE COUNTRIES IS GENERALLY PERMITTED SUBJECT, HOWEVER, TO THE IMMIGRATION REGULATIONS OF OTHER COUNTRIES.

IT IS PARADOXICAL THAT AS THE POSSIBILITIES FOR MOVEMENT HAVE GREATLY INCREASED AS A RESULT OF MODERN MODES OF TRANSPORTATION, ARTIFICIAL BARRIERS TO MOVEMENT CONTINUE TO EXIST IN SOME PARTS OF THE WORLD AND IN SOME CASES HAVE BEEN REINFORCED. SOME GOVERNMENTS STILL DENY THE RIGHT OF THEIR PEOPLES TO EMIGRATE OR TRAVEL FREELY. NOT ONLY IS THIS RIGHT NOT GRANTED AUTOMATICALLY, BUT ATTEMPTS TO LEAVE ARE MET WITH DILATORY AND BURDENSOME PROCEDURES WHICH NEGATE ANY SUCH RIGHT. IN MANY INSTANCES, INDIVIDUALS RECEIVE CRIMINAL PENALTIES IF THEY SEEK TO LEAVE. FAMILIES AND CLOSE RELATIVES ARE HEARTLESSLY KEPT FROM REUNITING ACROSS FRONTIERS.

MANY EXAMPLES OF DENIAL OF THE RIGHT TO LEAVE A COUNTRY HAVE BEEN CITED IN THE REPORT UNDER CONSIDERATION. DISTINGUISHED REPRESENTATIVES TO THIS COMMISSION ARE AWARE OF OTHER INSTANCES WHETHER THEY RELATE TO ACTIONS BY THEIR OWN OR BY OTHER GOVERNMENTS.

FUNDAMENTAL TO THE ACHIEVEMENT OF GREATER UNDERSTANDING IS THE ELIMINATION OF ARTIFICIAL BARRIERS TO MOVEMENT WHICH CONSTITUTE A SOURCE OF TENSION AND DISTRUST. THE REMOVAL OF SUCH BARRIERS CAN CONTRIBUTE IMMEASURABLY TO BUILDING CONFIDENCE AMONG NATIONS AND STRENGTHENING THE CONDITIONS FOR LASTING PEACE.

WE TRUST THAT THIS COMMISSION WILL GIVE THE THOROUGH TREATMENT TO THE REPORT OF JUDGE INGLES WHICH IT SO RICHLY DESERVES AND THAT WE WILL BE IN A POSITION TO MAKE SPECIFIC RECOMMENDATIONS FOR FURTHER WORK ON THIS SUBJECT. WE BELIEVE THAT, AT A MINIMUM, THE REPORT SHOULD BE UP- DATED AND THE DRAFT PRINCIPLES REVIEWED AND POSSIBLY REVISED. WE RESERVE OUR RIGHT TO COMMENT FURTHER ON ADDITIONAL STEPS WHICH THE COMMISSION MIGHT TAKE TO ADVANCE OUR WORK ON THIS SUBJECT. END TEXT. RIMESTAD

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